

Office Action Summary

Application No.

10/763,001

Applicant(s)

BOHANAN ET AL.

Examiner

Luan K. Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,6-19,29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 7 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-19 is/are allowed.
- 6) ☒ Claim(s) 1,3,8-11,29,30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Continued Prosecution Application

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/13/2007 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3, 8-11, 29 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1 and 29, the phrase "... in contact with said web of gas-permeable thermoplastic material" is inaccurate and indefinite because there is at least one layer such as a printed layer having a camouflage pattern disposed between the web of gas-permeable thermoplastic material and the web of gas-impermeable thermoplastic material.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 30 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Neteler (6,531,197) in view of Caggiano (4,861,632). Neteler discloses a bag (10) comprising a receptacle having a mouth and a zip-lock (column 3, lines 26-27) attached to the mouth which is considered equivalent to the zipper comprises first and second zipper strips that extend across the mouth as claimed. The receptacle formed of laminated material (Figure 2) and the laminated material comprising a first layer (24) formed of microporous polyolefin impregnated with silica (column 3, lines 53-55) which is considered equivalent to an odor-eliminating chemical agent supported by the web of gas-permeable thermoplastic material as claimed and a second layer (20, 22, 30) formed of polypropylene (column 3, lines 30-32) which is considered equivalent to the web of gas-impermeable thermoplastic material as claimed. Neteler further discloses the web of gas permeable thermoplastic material comprises an inner surface and the inner surface is exposed to an interior volume of the receptacle. To the extent that Neteler fails to show the silica being an odor eliminating agent, Caggiano shows a laminated container comprising first and second layers laminated to each other with at least the first layer comprising a first material (3) and an absorbent layer impregnated with a desiccant agent such as a silica gel or fungicidal agent to inhibit the growth of any fungi (column 3, lines 56-65 and column 4, lines 45-50) which is considered equivalent to an odor eliminating agent as claimed. It would have been obvious to one having ordinary skill in the art in view of Caggiano to modify the laminated material of Neteler so an odor eliminating chemical agent is supported by the first layer instead of silica to eliminating odor within the bag. With respect to the web of gas impermeable thermoplastic material is in contact with the web of gas permeable thermoplastic material, it would have been

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obvious to one having ordinary skill in the art at the time the invention was made to modify the bag of Neteler to eliminate the intermediate layer 22 formed from a metal foil from the laminated material to reduce corrosion and/or reduce the cost of manufacture and since it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

6. Claims 3 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 1 above, and further in view of Castiglione et al. (6,803,090; hereinafter Castiglione'090). Neteler further fails to show the first layer comprises a corrosion inhibiting chemical agent. Castiglione'090 shows a fluid transport film includes a corrosion inhibiting chemical agent within the adhesive compositions of the film (column 15, line 33-42). It would have been obvious to one having ordinary skill in the art in view of Castiglione'090 to modify the first layer of Neteler as modified so the first layer further includes a corrosion inhibiting chemical agent to prevent corrosion to the contents. The first layer is not external to any other layer since the second layer (20, 22, 30) is a single layer.

7. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 1 above, and further in view of Official Notice and Worthy, Jr. (2003/0236159). Neteler further fails to show a first header having a first opening and a second header having a second opening. Official Notice is taken of the old and conventional practice of providing a bag having a first header with a first opening and a second header with a second opening to facilitate carrying the bag. Worthy, is cited by way of example, shows a bag (10)

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comprising a first layer (14) having a first header with a first opening (34) and a second layer (16) having a second header with a second opening (36) and the first and second openings are generally mutually overlapping when the bag is closed. It would have been obvious to one having ordinary skill in the art in view of Official Notice and Worthy to modify the bag of Neteler as modified so the bag includes a first header with a first opening and a second header with a second opening to facilitate carrying the bag.

8. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neteler (6,531,197) in view of Castiglione et al. (6,803,090; hereinafter Castiglione'090). Neteler discloses the bag as above having all the limitations of the claim except for the first layer comprises a corrosion inhibiting chemical agent. Castiglione'090 shows a fluid transport film includes a corrosion inhibiting chemical agent within the adhesive compositions of the film (column 15, line 33-42). It would have been obvious to one having ordinary skill in the art in view of Castiglione'090 to modify the first layer of Neteler as modified so the first layer includes a corrosion inhibiting chemical agent to prevent corrosion to the contents. With respect to the web of gas impermeable thermoplastic material is in contact with the web of gas permeable thermoplastic material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bag of Neteler to eliminate the intermediate layer 22 formed from a metal foil from the laminated material to reduce corrosion and/or reduce the cost of manufacture and since it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

Allowable Subject Matter

9. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 12-19 are allowed.

Response to Arguments

Applicant's arguments with respect to 4/13/2007 have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's arguments with respect to Neteler or Caggiano in the remarks are noted. They are not persuasive for the reasons as set forth above.

Applicant's arguments with respect to Castiglione are noted. They are not persuasive because Castiglione is relied upon for nothing more than a film includes a corrosion inhibiting chemical agent. Since Neteler discloses an odor-eliminating chemical agent supported by a web of gas-permeable thermoplastic material. There does not appear to be anything unobvious about using the teaching of Castiglione to modify the web of gas-permeable thermoplastic material of Neteler so the odor-eliminating chemical agent comprises a corrosion inhibiting chemical agent to allow the bag of Neteler for holding various contents.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

lkb
April 26, 2007



Luan K. Bui
Primary Examiner
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